

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
GREENVILLE DIVISON
Civil Action No. 4:24-cv-00051-M-RN

CYNTHIA B. AVENS,)
)
 Plaintiff,)
 v.)
)
 FARIS C. DIXON, JR., District) DEFENDANT DIXON'S
 Attorney; VIDENT/ECU HEALTH) RESPONSE AND OBJECTON TO
 MEDICAL CENTER DR. KAREN) PLAINTIFF'S NOTICE TO
 KELLY, Medical Examiner;) DISCUSS RESOLUTION
 JOHN/JANE DOE; JOHN/JANE DOE;)
 JOHN/JANE DOE,)
)
)

Defendants.

NOW COMES Defendant Faris C. Dixon, Jr., District Attorney for North Carolina's Third Prosecutorial District, in his official and individual capacity, and hereby submits this response and objection to Plaintiff's "Notice to Discuss Resolution." (DE 99)

STATEMENT OF THE CASE

Plaintiff Cynthia Avens ("Plaintiff" or "Ms. Avens") filed this action on March 22, 2024, pursuant to 42 U.S.C. §§ 1981, 1983, 1985, 1988, and 2000d and 18 U.S.C. § 241, seeking redress for violations of constitutional rights. (DE 1 p. 1) There are three named defendants: 1) District Attorney Faris C. Dixon ("DA Dixon"); 2) VIDENT/ECU Health Medical Center ("ECU Health"); and 3) Karen Kelly, medical examiner ("ME") at the Regional Autopsy Center in

Greenville, North Carolina. (DE 1 pp. 1–2)

On June 18, 2024, Plaintiff filed an amended pleading alleging that DA Dixon violated 42 U.S.C. § 1983 by “[f]ailing to conduct a thorough and impartial investigation; obstructing justice and conspiring to conceal information; violating [her] First Amendment rights; and [v]iolating her Fourteenth Amendment rights.” (DE 33 pp. 1, 65) These claims are brought against DA Dixon in his official and personal capacities. (DE 33 p. 2)

Ms. Avens alleges injury of financial losses and pain and suffering. (DE 33 pp. 78–82) Ms. Avens requests monetary compensation for equipment expenses, legal costs, medical expenses, employment impact, website maintenance, and pain and suffering totaling \$156,654,559.04. (DE 33 p. 83) She also asks this Court to order a criminal investigation into the death of Ms. White, appoint a special prosecutor to oversee the investigation including the actions of the named defendants, and requests the federal court launch its own investigation. (DE 33 pp. 82–83). She also requests a “public symbol honoring Keisha Marie White.” (DE 33 p. 83).

Defendant Dixon subsequently filed a Motion to Dismiss the Amended Complaint on July 2, 2024. (DE 43) On January 30, 2025, Magistrate Judge Numbers issued a Memorandum and Recommended Decision recommending that Defendant Dixon’s Motion to Dismiss be granted. (DE 87) Plaintiff has now filed a "Notice to Discuss Resolution" along with a supporting brief. (DE

99, 101) Defendant Dixon construes Plaintiff's notice as a request for mediation or a settlement conference. In either case, Defendant objects to the filing and maintains that the claims against him are barred by prosecutorial immunity.

DEFENDANT DIXON'S RESPONSE TO NOTICE

To the extent Plaintiff seeks mediation or a settlement conference, Defendant Dixon objects. A memorandum and recommendation for dismissal of Plaintiff's claims on multiple grounds, including absolute prosecutorial immunity has been filed. (DE 87) Given that Defendant Dixon is entitled to such immunity, and the claims against him are legally barred, alternative dispute resolution is neither appropriate nor warranted.

CONCLUSION

For all the reasons argued in Defendant Dixon's Motion to Dismiss, the claims alleged by Plaintiff should be dismissed because she lacks standing to bring these specific civil claims and criminal charges, the claims are barred by absolute prosecutorial immunity and the Eleventh Amendment, and she does not state a claim for which relief may be granted. Accordingly, Plaintiff's request for alternative dispute resolution should be denied.

Respectfully submitted, this the 15th day of July, 2025.

JOSHUA H. STEIN
ATTORNEY GENERAL

/s/ Tamika L. Henderson
Tamika L. Henderson
Special Deputy Attorney General
N.C. State Bar No. 42398
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602
(919) 716-6900
tlhenderson@ncdoj.gov
Attorneys for Defendant Dixon

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day electronically filed the **DEFENDANT DIXON'S RESPONSE AND OBJECTION TO PLAINTIFF'S NOTICE TO DISCUSS RESOLUTION** using the CM/ECF system, which will send notification of such filing to all the counsel of record for the parties who participate in the CM/ECF system and addressed to the following individual:

Cynthia B. Avens
303 Riverside Trl.
Roanoke Rapids, NC 27870
Pro se Plaintiff

This the 15th day of July, 2025.

/s/ Tamika L. Henderson
Tamika L. Henderson
Special Deputy Attorney General
N.C. Department of Justice